

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAR PALA RA ANAN aka,
MARVELLOUS A. GREENE, SR.,
Plaintiff,

No. CIV S-02-0493 DFL GGH P

vs.

D. KIMBRELL,

Defendants.

ORDER

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. On April 29, 2005, defendants filed a request to be relieved from the date for filing their pretrial statement and asked the court to order plaintiff to show cause why this action should not be dismissed pursuant to Fed. R. Civ. P. 41(b) for his failure to comply with the court's order filed on March 31, 2005, wherein, inter alia, plaintiff was directed to file his pretrial statement by April 15, 2005. Defendants point out that the pretrial statement plaintiff (which was filed more than a year ago, on March 15, 2004), is inadequate as it fails to set forth, among other deficiencies, names and addresses of plaintiff's prospective trial witnesses.

However, there is a threshold matter which must first be addressed. This court's review of the case record demonstrates that mail to plaintiff from the court continues to be returned with various reasons or no reason given by the CDC: See entries for 2/7/05-mail

1 returned as undeliverable on Feb. 7, 2005; mail returned as undeliverable (name and number do
2 not correspond) on February 17, 2005; mail returned as undeliverable (no CDC number listed
3 here) on April 8, 2005. The court sought to obviate the problem CDC was having in matching
4 the name and CDC number by directing the Clerk of the Court to use both names listed in the
5 caption for plaintiff in the court's certificate of service by order filed on January 14, 2005.

6 Plaintiff never received the court's order, filed on March 31, 2005, because CDC
7 deemed it "undeliverable." Defendants are now ordered to show cause within 10 days why CDC
8 cannot deliver plaintiff's mail. Because the deadlines for both pretrial statements have passed,
9 the court will vacate the pretrial conference to be reinstated upon resolution of the problem of
10 mail delivery to plaintiff.

11 Accordingly, IT IS ORDERED that:

12 1. Defendants must show cause, within 10 days, for CDC's repeated failure to
13 deliver the court's mail to plaintiff;

14 2. The May 6, 2005 pretrial conference is vacated, as are the deadlines for the
15 parties' pretrial statements, to be reset upon resolution of the mail delivery problem.

16 DATED: 5/9/05

17 /s/ Gregory G. Hollows

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19 GREGORY G. HOLLOWES
UNITED STATES MAGISTRATE JUDGE

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